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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,538	10/07/2003	Bradley Jon VanderTuin	27644.16	5013
32300	7590	09/21/2005	EXAMINER	
BRIGGS AND MORGAN P.A. 2200 IDS CENTER 80 SOUTH 8TH ST MINNEAPOLIS, MN 55402			SIPOS, JOHN	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/680,538	VANDERTUIN ET AL.	
	Examiner	Art Unit	
	John Sipos	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 53-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 53-55 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/8/05</u> | 6) <input type="checkbox"/> Other: ____ |

REJECTIONS OF CLAIMS BASED ON PRIOR ART

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10-14,17 and 20-22 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Grenwell (3,545,165) in view of Limousin (6,772,575).

The patent to Greenwell shows a packaging machine comprising a conveyor 702 having a plurality of apertures between rollers 704, the conveyor comprising two chains 705,706, a source of air with a fan 718, a heated air plenum below the conveyor 714 with apertures 719, a return air plenum 711, a shroud enclosing the conveyor 713 that is spaced at a displacement from the conveyor (see the spacing between walls 728,729 and the conveyor in Figure 25), side ducts 722,723 and air flow controls 719 and 720.

The Patent to Greenwell lacks the use of a variable speed fan. The patent to Limousin shows a packaging machine comprising a heating tunnel 42 over a conveyor 30 and fans 60 that are operated by variable electrical motors to vary the airflow within the tunnel. It would have been obvious to one skilled in the art substitute the variable fan of Limousin for the fan of Grenwell to make the heating tunnel more versatile and allow the variations of the airflow within the tunnel.

The use tapered tunnels to increase air flow (claim 2), conveyor cooling fans (claim 4), supplemental heaters (claims 6), adjustable shrouds to accommodate different size articles (claims 10-13) and nozzles (claim 17) are well known and the Examiner takes official notice that the use of these features are common knowledge in the packaging art. In the above cases the modification of the Greenwell operation would have been obvious to one skilled in the art for the known benefits of each modification.

Regarding claim 14, the size of the apertures depends upon the desired airflow and would have been obvious to one skilled in the art to experiment to reach the optimum desired flow.

Claims 7-9,15,16,18 and 19 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Greenwell (3,545,165) as applied to the claims above, and further in view of the patent to Neagle (5,765,336). The patent to Greenwell lacks the double lanes of articles. The patent to Neagle shows a packaging machine that can be converted from a single lane to a double lane operation by using double conveyors 150a-150d and a double width wrapper that is separated by knife 212 and thereby increases the productivity of the machine. Various mechanisms are adjustable to conform to either operation and central tools can be inserted to accommodate the two lanes (see column 3, lines 28-39). The articles are passed through a heating tunnel where the wrapper is shrunk onto the articles. It would have been obvious to one skilled in the art to provide the device of Greenwell with a duplicate conveyor and central tools

to accommodate two lanes of articles as shown by Neagle to increase the machine output.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 53-54 are rejected under **35 U.S.C. ' 102(b)** as being anticipated by the patent to Nava (6,648,634). The patent to Nava shows a packaging machine comprising a conveyor 5 having a plurality of apertures, a source of air with a fan 17, a heated air plenum below the conveyor with apertures 10, a return air plenum 32, a shroud enclosing the conveyor 3 that is spaced at a displacement from the conveyor, and air flow controls 11 that comprise lanes with apertures extending parallel to the conveying directions.

Claims 55 is rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Nava (6,648,634). The use baffles to direct airflow is well known and the Examiner takes official notice that the use of baffles is common knowledge in the

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packaging art. It would have been obvious to one skilled in the art to provide the Greenwell tunnel with baffles to more positively direct the airflow.

ALLOWABLE SUBJECT MATTER


The claims would be more favorably considered if claim 53 was modified by adding in the last paragraph the phrase "wherein each of the air lanes are open and extend substantially parallel to the first direction for a major length of said air plenum." Similar addition should be added to claim 1.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9306**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.


John Sipos
Primary Examiner
Art Unit 3721

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